



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
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2006 JAN -5 PM 1:19

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CWA-08-2006-0011

IN THE MATTER OF:

HORIZON HELICOPTERS

RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

Jan. 5, 2005
DATE

Carol A. LeBoo
Carol A. LeBoo, Acting
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8 2006 JAN -5 PM 1:20

In the Matter of:

Horizon Helicopters

Respondent.

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EPA REGION VIII
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EXPEDITED CONSENT AGREEMENT
DOCKET NO.: CWA-08-2006-0011

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Horizon Helicopters, by their undersigned representatives, hereby settle the civil cause of action arising out of a spill of oil that occurred on or about April 1, 2005, and violations of the Spill Prevention Control and Countermeasures (SPCC) Plan regulations, and agree as follows:

The Clean Water Act (the Act), as amended, authorizes the Administrator of EPA to assess administrative penalties against any person who discharges oil into or upon the navigable waters and adjoining shorelines of the United States in quantities that have been determined may be harmful to the public health or welfare or environment of the United States, 33 U.S.C. § 1321(b)(6) and (b)(3) or any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This determination includes discharges of oil that (1) violate applicable water quality standards, (2) cause a film, sheen, or discoloration of the surface of the water or the adjoining shoreline, or (3) cause a sludge or emulsion to be deposited beneath the surface of the water or the adjoining shoreline, 40 C.F.R. § 110.3 and the failure to prepare and implement an

SPCC plan, in accordance with 40 C.F.R. § 112.7. This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates Horizon Helicopters located at Hungry Horse Reservoir, Flathead County, Montana.

Respondent admits that on or about April 1, 2005, its Horizon Helicopters facility discharged approximately 20 gallons or less of aviation fuel into or upon Hungry Horse Reservoir and/or its adjoining shorelines.

Respondent's discharge from its facility caused a sheen upon, or discoloration of, or caused a sludge or emulsion to be deposited on the surface of the Hungry Horse Reservoir and/or its adjoining shoreline.

Respondent's discharge constitutes a violation of Section 311 (b)(3) of the Act.

Respondent admits its facility is subject to the SPCC regulations.

Respondent admits that it failed to prepare and implement an SPCC Plan for Horizon Helicopters in accordance with 40 C.F.R. § 112.7.

Respondent agrees to correct the cited violations of 40 C.F.R. § 112.7 on the attached list within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent agrees to submit a revised copy of the SPCC Plan for Horizon Helicopters to EPA for its review and approval.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives their right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$1,400.00; \$500.00 for the discharge of oil in violation of Section 311(b)(3) of the Act and \$900.00 for violations of Section 311(j) of the Act, which shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this agreement to:

Donna K. Inman
Technical Enforcement Program (8ENF-UFO)
USEPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Respondent states, under penalty of perjury, that they have (1) investigated the cause of the spill, (2) cleaned up the spill pursuant to federal requirements, (3) taken corrective actions to prevent future spills, and (4) Respondent will revise, implement, and maintain an SPCC plan in accordance with 40 C.F.R. § 112.7.

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance or has not cleaned up the discharged oil as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8,
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By: Elisabeth Evans
Elisabeth Evans, Director
Technical Enforcement Program

Date 1/03/06

Horizon Helicopters, Respondent.

By: [Signature]
Dec 16-05
Date

Name:

Title:

List of SPCC Violations

SPCC Plan [40 C.F.R. § 112.3]:

Failure to prepare and/or implement a facility SPCC Plan in accordance with 40 C.F.R. § 112.7 and [§ 112.8 or § 112.12]

Horizon Helicopters' July 2005 SPCC Plan has the following deficiencies:

Inadequate schedule of installation and start-up for additional procedures or equipment not yet fully operational as required by 40 C.F.R. § 112.7. August 2006 is not an acceptable date. These measures need to be implemented as soon as possible.

Inadequate facility diagram in violation of 40 C.F.R. § 112.7(a)(3). The diagram does not identify the transfer stations.

Inadequate discussion of discharge prevention measures in violation of 40 C.F.R. § 112.7(a)(3)(ii).

Inadequate or incorrect contact list and phone numbers for facility response coordinator as required by 40 C.F.R. § 112.7(a)(3)(vi). The names and phone numbers are missing for the SPCC Coordinator and five alternated SPPC coordinators for this site. This list would need to be updated for each site set-up.

Inadequate discharge notification form as required by 40 C.F.R. § 112.7(a)(4).

Inadequate discharge procedures as required by 40 C.F.R. § 112.7(a)(5).

Inadequate discharge prediction in violation of 40 C.F.R. § 112.7(b).

No discussion of secondary containment for the loading/unloading areas as required by 40 C.F.R. § 112.7(c).

No provision for master flow and drain valves to have security measures to keep them in the closed position when in a non-operating or non-standby mode as required by 40 C.F.R. § 112.7(g)(2).

Inadequate discussion of drainage from diked areas as required by 40 C.F.R. § 112.8(b)(1).

No provision to use valves of manual, open-closed design for diked areas as required by 40 C.F.R. § 112.8(b)(2).

Inadequate description of secondary containment for bulk storage containers in violation of 40 C.F.R. § 112.8(c)(2).

No discussion of engineering of containers to prevent a discharge as required by 40 C.F.R. § 112.8(c)(8).

No discussion of secondary containment for mobile or portable containers in violation of 40 C.F.R. § 112.8(c)(11).

No procedures to inspect all aboveground valves, piping and appurtenances as required by 40 C.F.R. § 112.8(d)(4).

No procedures to conduct leak and integrity testing of buried piping at the time of installation, modification, construction, relocation, or replacement as required by 40 C.F.R. § 112.8(d)(4).

No discussion or vehicles being warned not to endanger aboveground piping or other oil transfer operations as required by 40 C.F.R. § 112.8(d)(5).

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **HORIZON HELICOPTERS, DOCKET NO.: CWA-08-2006-0011** was filed with the Regional Hearing Clerk on January 5, 2006.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Michael Risner, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on January 5, 2006, to:

Mr. Gary Jorgenson, Owner
Horizon Helicopters
P. O. Box 29
Laclede, ID 83841

And:

Commander – National Pollution Funds Center
U. S. Coast Guard
Finance Center (OGR)
1430 A Kristina Way
Chesapeake, VA 23326

January 5, 2006


Tina Artemis
Regional Hearing Clerk



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